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MONITORING THE IMPLEMENTATION OF THE NAIROBI FORWARD-LOOKING STRATEGIES FOR THE ADVANCEMENT OF WOMEN

The situation of Palestinian women

Note by the Secretary-General

*E/CN.6/1991/1.

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1. This note has been prepared in pursuance of Economic and Social Council resolution 1990/11. In this resolution, the Council requested the Secretary-General "to ensure that the experts continue to monitor and investigate further the situation of Palestinian women and children inside and outside the occupied Palestinian territories, and to ensure that their report is submitted to the Commission on the Status of Women at its thirty-fifth session".

2. In the same resolution, the Council requested the Secretary-General to monitor the implementation of the recommendations contained in the report of the mission of experts (E/CN.6/1990/10) to Jordan and the Syrian Arab Republic in 1989, and to report to the Commission at its thirty-fifth session "on the implementation of the recommendations and conclusions contained in the report of the mission of experts, taking into consideration all available information, including reports of the United Nations, its specialized agencies and its expert missions, reports of meetings, as appropriate, and information from Governments and non-governmental organizations".

3. In a note verbale of 7 August 1990, the Secretary-General, in view of the new request that the mission monitor and further investigate the situation, requested the Government of Israel to provide confirmation of its "support for the visit of the mission in order to proceed with the necessary administrative arrangements".

4. The Government of Israel, through its Permanent Representative to the United Nations (Vienna), replied on 13 November 1990 as follows:

> "The Permanent Representative of Israel would like to emphasize the fact that the above-mentioned resolution contains already conclusions concerning the situation in the territories which makes - in the opinion of Israel - an additional investigation by a mission completely unnecessary. However, the Government of Israel will reconsider its position concerning the support of a fact-finding mission if such a request of support will not be part of a resolution with a conclusive condemnation nature."

The mission could not, therefore, be sent to the occupied Palestinian territories.

5. A recommendation made by the 1989 mission and reflected in Council resolution 1990/11, was that "Palestinian women be assisted in the creation of a women's centre that would provide possibilities for child care, educational discussion, cultural activities, women's solidarity and small-scale production". Information on the situation of women's centres, provided by the United Nations Relief and Works Agency for Palestine Refugees in the Near East is annexed to the present note.

Annex

RELIEF AND SOCIAL SERVICE PROGRAMMES FOR PALESTINE REFUGEE WOMEN IN THE OCCUPIED TERRITORIES

Introduction

6. In 1948, nearly three quarters of a million Arabs became refugees during the disturbances before and after the creation of the State of Israel in the former British mandate territory of Palestine. The refugees fled to eastern Palestine, now better known as the West Bank (of the river Jordan); and to Gaza, subsequently administered by Egypt until 1967; others to Jordan, Lebanon and the Syrian Arab Republic; some even further afield. Following the 1967 war, refugees again fled from the affected areas, and the West Bank and Gaza were occupied by Israel.

7. Emergency assistance was provided promptly by international voluntary agencies supported by funds channelled through the United Nations Relief for Palestine Refugees (UNRPR). Then, as hopes for the immediate return of refugees to their homes faded, the General Assembly, by resolution 302 (IV) of 8 December 1949, set up the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) as a temporary organization and successor to UNRPR. UNRWA began operations on 1 May 1950.

8. By 31 December 1990, there were almost 2.5 million Palestinian refugees registered with UNRWA. Some 856,200 (34.71 per cent) of these registered refugees live in 61 refugee camps in the West Bank, Gaza, Lebanon, Jordan and the Syrian Arab Republic. The majority of the refugee population lives in cities, towns and villages together with other Palestinians or host country nationals.

9. UNRWA provides humanitarian support and services to Palestinian refugees in the sectors of health, education, direct relief, social services and general assistance. A Special Hardship programme is extended to those refugee households that have no male adult present who is medically fit to earn a living and that have no other identified source of finances adequate to meet basic needs. By the end of December 1990, the number of refugees registered as Special Hardship Cases had reached 155,980 or 7.5 per cent of the refugees eligible for UNRWA services. Of these 29,358 were in the West Bank and 47,642 were in Gaza.

A. Palestinian refugee women

10. Women and girls account for 48.8 per cent of the Palestinian refugee population. Half of the households receiving assistance under the Special Hardship programme are headed by women. Women also carry heavy responsibilities in those refugee families where husbands are invalids, disabled or imprisoned. The intifadah in the Occupied Territories of the West Bank and Gaza, and the armed conflicts and violence in Lebanon during the past 15 years have greatly added to these responsibilities.

B. Programmes for Palestian refugee women

11. Palestinian refugee women have always received assistance and services from UNRWA, benefiting directly from the health, education and relief projects

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and programmes. The annual reports of the Commissioner-General to the General Assembly of the United Nations describe these services.

Health

12. Recognizing the vulnerability of women and children, UNRWA has focused on preventive and community health programmes with women and children as the major target group. The programmes and services are carried out through a network of 104 health centres and sub-centres located in the refugee camps and in cities, towns and villages throughout the five fields of operation of UNRWA. Detailed information is available in the annual reports of the UNRWA Director of Health.

Education

13. UNRWA offers basic schooling at the elementary and preparatory levels, covering the age group 6-14 years, to all eligible Palestinian refugee children. Of these children, 49 per cent are females.

14. UNRWA operates eight Training Centres, all of which provide vocational and technical training. While the proportion of women attending courses in teacher training is 53 per cent (440 out of 823 students), it is only 20 per cent in vocational training. Efforts are being made to increase the proportion of women attending vocational training by offering a wider range of courses attractive to them such as computer sciences, business and office practice, and nursing. Detailed information is available in the Statistical Yearbook of UNRWA, Department of Education.

Relief and social services

15. Since 1989, the Relief and Social Services programme has given stronger emphasis to refugee women as a group requiring special attention, whose needs and priorities must be brought into the mainstream of UNRWA programmes and not addressed as a minority or as a secondary issue. This has involved not only developing tailored skills training and income-generation programmes for economic self-reliance, but also creating appropriate opportunities and the environment for enhancing their awareness, self-confidence, capacities and capabilities, and ensuring that their perspectives and concerns are explicitly taken into account, together with those of the man and the formal representatives of the refugee community, in the development of plans and schemes for the benefit of the family and the refugee community.

16. The Relief and Social Services programme has adopted a three-pronged objective for those activities that particularly address the needs and aspirations of refugee women: to enable more disadvantaged refugee women, especially from "Special Hardship" families, to acquire the skills and secure opportunities to earn a living; to enable such women to cope effectively with family and social problems; and to facilitate their role in the development of their own community.

Women's programme centres

17. The focal point of this endeavour is the multi-purpose Women's Programme Centres (WPC). WPCs offer facilities and opportunities to women and girls to participate in a diverse range of socio-economic activities.

18. By request of the women themselves, these include a sewing programme, a basic 11-month course in various techniques of hand- and machine-sewing, pattern-making, cutting and fitting, and in the traditional embroidery for which Palestinian women are renowned. Each course accommodates 30 trainees; on its successful completion, they are awarded a diploma recognized by potential employers.

19. On graduation, the trainees are able to use their newly acquired knowledge to make clothes for themselves and their families. Some find employment as neighbourhood seamstresses in the camp, or in workshops or factories. Others work in centres that produce fine traditional embroidery, in old and modern designs to suit the tastes of an expanding market both local and foreign.

20. Other courses organized at the WPCs include dress-designing and dress-making, typewriting, flower-making, knitting and hairdressing. Sessions in health education, first aid, environmental education, home economics, leadership training, sports and cultural events are also held.

21. Literacy instruction is given to illiterate women in WPCs. The inability to read, write and do simple arithmetical calculations limits women's roles as both beneficiaries and agents of development in their community. The women who are not functionally literate are very conscious of their handicap and many of them have requested assistance. Projects to expand classes in functional literacy and numeracy have been submitted to potential donors.

22. Group income-generation schemes among women are beginning to be developed based at WPCs. Technical assistance, advice and facilities are made available. Women can safely meet, plan and organize their productions, until the enterprise is firmly established to move to its own premises.

23. Since January 1988, in partnership with the British non-governmental organization, Co-operation for Development, UNRWA has implemented a scheme of loans for small-scale economic enterprises in the West Bank and Gaza. By the end of December 1990, there were 205 projects funded by loans in both territories in the approximate amount of $US 1.5 million. Twenty of these projects were run by refugee women themselves, and included micro-knitting, food-processing, children's clothing, a beauty salon, dental laboratory, medical laboratory and poultry farm. In most of the other projects women's labour was critical to the functioning of the enterprise.

24. WPCs provide an important forum where community workers - social workers, community health nurses, educators and others - can meet with the refugee women to discuss and share common issues, perceptions and concerns, and plan concerted action, projects and programmes.

25. Though skill training and all other activities were frequently disrupted in the Occupied Territories due to curfews since the start of the intifadah on 8 December 1987, the number of women attending WPCs has significantly increased. The need for women to get the necessary training to work and earn money has increased greatly with so many husbands and fathers unable to contribute regularly to the family. Moreover, the solidarity and mutual support that the refugee women give each other has become ever more important in coping with the stress of living under occupation.

26. At present there are 12 WPCs in the West Bank and 13 in Gaza. In the latter, funds have been sought to construct a new WPC in the Khan Younis camp, and project proposals to construct another two centres in the Beach and Rafah camps are under negotiation with two separate donors. Funds for constructing WPCs in Daraj, Gaza town and Jabalia camp were secured from two separate donors but the Civil Administration in the Occupied Territories blocked the two projects.

27. In the West Bank, a new centre funded by a non-governmental organization opened in May 1989 in Askar camp, and the centre in Arrub was upgraded. Another centre in Ama'ri was approved for funding by one Government and three other project proposals to construct WPCs in Fara'a, Jalazone and Shufat camps are under negotiation with different potential donors.

C. Future plans

28. The main functional objectives until 1993, as stated in the Relief and Social Services medium-term plan 1991-1993, are given below.

1. To support social workers in assisting women in Special Hardship families to cope with family and other problems;

   (a) To conduct workshops to sensitize social workers to the perspectives and needs of wives and mothers in relation to family concerns;

   (b) To equip social workers with information on services and programmes which can support women.

2. To develop the health education classes conducted at the Women's Programme Centres, in association with the Health Department;

   (a) To open them to other women as well as those participating in the sewing courses;

   (b) To build up the components relating to healthy life-styles;

   (c) To include a component on the prevention of disability and the rehabilitation of the disabled.

3. To use the Women's Programme Centres as a vehicle for education in early childhood development:

   (a) Where possible, and in partnership with a non-governmental or other organization, to associate the Women's Programme Centres with a pre-school programme, in which the women themselves participate;

   (b) To seek the co-operation of the United Nations Children's Fund and other interested organizations in arranging sessions in early childhood stimulation;

   (c) In fields where mothers are coping with trauma in their young children, to use the Women's Programme Centre as a place where

problems can be discussed in a supportive group, with professional help, and with the offered assistance.

4. To develop multi-purpose Women's Programme Centres as the focal points in the community for UNRWA programmes with and for women, with the active involvement of the women themselves in selecting appropriate activities, and with UNRWA staff attached to the Centres acting as facilitators; in particular for skill-training courses, group income-generation projects, social and cultural activities, and meetings with women on community issues.

5. To provide, at the Women's Programme Centres and other UNRWA centres offering training courses for women, facilities for babies and infants whose needs might otherwise prevent mothers from attending.

6. To continue offering classes in functional literacy and numeracy for the refugee women and adults who lack these skills.

7. To identify specific employment possibilities for disadvantaged refugees, including women, unemployed youth and the disabled, with local employers or through an UNRWA sponsored income-generating enterprise.

8. In direct relation to identified employment opportunities, to introduce other appropriate skill-training courses targeted especially on women, unemployed youth and the disabled.

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MONITORING THE IMPLEMENTATION OF THE NAIROBI FORWARD-LOOKING STRATEGIES FOR THE ADVANCEMENT OF WOMEN

Examining existing mechanisms for communications on the status of women

Report of the Secretary-General

SUMMARY

By its resolution 1990/8 of 24 May 1990, the Economic and Social Council requested the Secretary-General to examine, in consultation with Governments, the existing mechanisms for communications on the status of women. When carried out, that examination, which included a comparison between the procedure followed by the Commission on the Status of Women, by human rights bodies of the United Nations and by the specialized agencies, and which took into account comments made by Governments, indicated a number of deficiencies in existing procedures. A number of suggestions for strengthening the mechanisms, involving different degrees of change in mandate, approach and programmatic and financial implications, are made in the present report.

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INTRODUCTION

1. By its resolution 1990/8 of 24 May 1990, the Economic and Social Council requested the Secretary-General, in consultation with Governments, to examine the existing mechanism for communications on the status of women and to report to the Commission on the Status of Women at its thirty-fifth session. The purpose is to ensure that such communications receive effective and appropriately co-ordinated consideration in view of their role in the work on the elimination of discrimination against women carried out by the Commission. The present report is submitted pursuant to that resolution.

2. In preparing the present report, the Secretary-General sought the views of Governments on whether the present procedure provided an efficient tool for identifying communications that revealed a consistent pattern of reliably attested injustice and discriminatory practices against women. By 12 October 1990, replies had been received from 30 Governments.* Of these, slightly less than half state that the current procedure is an efficient tool for that purpose or state that they have no comments to offer on the procedure. However, more than half of these Governments consider that the procedure needs modification and most of these offer substantive suggestions for improving it. The substance of replies from Governments has been incorporated in the present report.

3. Three issues are addressed: (a) the efficiency of the communications procedure of the Commission for achieving the goals specified in the relevant Council resolutions; (b) the need, if any, for modifications to the procedure; and (c) the need, if any, for additional mechanisms to deal with communications on the status of women.

4. The original functions of the Commission are set out in Council resolution 11 (II) of 21 June 1946, as amended by Council resolution 48 (IV) of 29 March 1947. These functions are to prepare recommendations and reports for the Council on promoting women's rights in political, economic, civil, social and educational fields; to make recommendations to the Council on urgent problems requiring immediate attention in the field of women's rights with the object of implementing the principle that men and women shall have equal rights; and to develop proposals to give effect to such recommendations.

5. The terms of reference of the Commission were expanded by Council resolution 1987/22 of 26 May 1987 to include the functions of promoting the objectives of equality, development and peace, monitoring the implementation of measures for the advancement of women and reviewing progress made at the national, subregional, regional, sectoral and global levels.

6. The improvement of the present procedure or the adoption of additional mechanisms to deal with communications concerning discrimination against women would expand, and should be consistent with, the terms of reference of the Commission.

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*Australia, Austria, Byelorussian Soviet Socialist Republic, China, Colombia, Cuba, Czechoslovakia, Egypt, Finland, Germany, Japan, Lesotho, Malta, Mexico, Morocco, Netherlands, New Zealand, Norway, Philippines, Poland, Portugal, Singapore, Sri Lanka, Sweden, Switzerland, Thailand, Turkey, Union of Soviet Socialist Republics, United States of America, Zaire.

I. THE CURRENT FUNCTIONING OF THE PROCEDURE

A. Mandate and practice

7. The mandate of the Commission on the Status of Women to receive communications is given in Economic and Social Council resolution 76 (V) of 5 August 1947, as amended by Council resolution 304 (XI) of 14 and 17 July 1950, and is reaffirmed in Council resolution 1983/27 of 26 May 1983 (see annex I).

8. In brief, these resolutions require the Secretary-General to prepare confidential and non-confidential lists of communications for submission to the Commission. Since 1984, in accordance with Council resolution 1983/27, communications are first considered by a sessional Working Group of the Commission, which identifies the categories of communication most commonly received, together with trends and patterns. The Commission may then make recommendations to the Council on the action it may wish to take. The Commission is not authorized to take any other action.

B. The nature of communications submitted to the Commission on the Status of Women

9. The non-confidential list includes communications dealing with the principles relating to the promotion of women's rights in the political, economic, civil, social and educational fields, while the confidential list includes other communications concerning the status of women.

10. The distinction between these categories is not clear and practice has varied. Apparently, it was originally intended that communications containing specific allegations of human rights violations would be included in the confidential list, while other communications would be included in the non-confidential list.

11. Communications in both lists have included offers of assistance or information on activities of organizations, suggestions for action to be taken by the Commission, allegations of violations of women's rights in different countries, either by the victims of such violations or by other individuals or groups in those or other countries. In many cases, the intervention of the United Nations has been requested.

12. Communications in the confidential list contain allegations of violations of women's rights by States in all regions and at different stages of development.

13. Since 1986, the practice generally followed in compiling the lists has been:

(a) To include in the non-confidential list any communication that does not identify any particular State as the alleged perpetrator of human rights violations, or that provides general information or offers of co-operation or assistance. (Allegations that a particular State had committed human rights violations against women, as well as communications of more general import, were, however, occasionally included in the non-confidential list prior to 1980);

(b) To include in the confidential list any communication that relates to a Member State, including:

(i) Allegations by individuals that they have been the victims of human rights violations;

(ii) Allegations by individuals that other identified persons have been the victims of human rights violations;

(iii) Allegations of a pattern of violations in a particular country;

(iv) Identification of a problem facing women in several countries;

(v) Information from the specialized agencies relating to communications they have received.

14. In fact, since 1984, there have been no non-confidential lists of communications submitted to the Commission, partly because there are other methods of bringing to the attention of the Commission matters appropriate for inclusion in that list and partly because some types of communication previously included therein are now included in the confidential lists.

C. The sources of communications

15. Communications provided to the Commission originate from: (a) individuals or non-governmental organizations that communicate directly with the Division for the Advancement of Women; (b) confidential lists prepared by the Centre for Human Rights pursuant to the procedure established in Council resolution 1503 (XLVIII) of 27 May 1970; and (c) specialized agencies or other United Nations bodies through the Division. Virtually all the communications processed by the Division fall into the first two categories.

16. When the Division receives a communication directly from an individual or non-governmental organization, it takes the following steps:

(a) A communication that does not relate to the status of women but on which the Division has been asked to take action is sent to the Centre for Human Rights for action. The author of the communication is so informed;

(b) A communication that does not relate to the status of women but on which the Division has been asked to take action is acknowledged and the author advised to contact the Centre for Human Rights;

(c) A communication concerning matters relating to the status of women but not making allegations of human rights violations is acknowledged and the author informed that it has been referred to the Commission in accordance with procedure, details of which are provided;

(d) A communication concerning a particular country and falling within the competence of the Commission is acknowledged and the author informed that it has been referred to the Commission in accordance with procedure, details of which are provided. This is the only information the author of a communication formally receives on the handling of the communication. The Government concerned is informed of the contents of the communication and of the procedure and relevant resolutions, and is requested to advise on the matters raised.

17. Also included in the confidential list submitted to the Commission are summaries of communications, together with replies from Governments, extracted from the confidential lists of communications received by the Centre for Human Rights, which are dealt with in accordance with Council resolutions 728 F (XXVIII) of 30 July 1959 and 1503 (XLVIII). (For a description of the relevant procedures, see paragraphs 123-131 below.)

18. The criterion used in recent years in selecting such summaries is that they refer specifically to women or women's issues. Since the adoption of the procedure provided for in Council resolution 1983/27, authorizing the Commission to appoint a Working Group, there has been some uncertainty as to whether all such communications fall within the mandate of the Commission, or whether those that involve men also should be dealt with by the Centre for Human Rights only. In spite of a request in this resolution, there has been little material provided by the specialized agencies, regional commissions or other United Nations bodies, although it is regularly sought by the Division (see paragraph 34 below).

D. The number of communications submitted to the Commission

19. The volume of communications that have been included in the confidential lists submitted to the Commission since 1986 is shown in the table below.

Communications included in the confidential lists since 1986 a/

Year	Received by the Division	Extracted from CHR b/ lists	Total
1986	19	54	73
1988	17	5	22
1990	10	19	29

a/ Caution must be exercised in using these figures. In some cases, "one" communication may consist of dozens or even hundreds of similar letters relating to one case or a country, conversely, some communications were not considered by the Working Group of the Commission to be appropriate inclusions in the list. It is, however, clear that the Division receives a tiny fraction of the volume of communications received by the Centre for Human Rights.

b/ CHR = Centre for Human Rights.

E. The role of the Working Group of the Commission

20. The confidential lists prepared by the Division are circulated to members of the Commission at the beginning of each session, in accordance with Council resolution 1983/27. This resolution authorizes the Commission to appoint a geographically balanced Working Group of not more than five of its members to meet in closed meetings during each session. The functions of the Working Group are as follows:

"(a) Consideration of all communications, including the replies by Governments thereon, if any, with a view to bringing to the attention of the Commission those communications, including the replies of Governments, which appear to reveal a consistent pattern of reliably attested injustice and discriminatory practices against women;

"(b) Preparation of a report, based on its analysis of the confidential and non-confidential communications, which will indicate the categories in which communications are most frequently submitted to the Commission."

21. The Commission has appointed a Working Group on Communcations on the Status of Women at each of its sessions since 1984 except in 1987 and 1989. The Working Group generally has two or three meetings. Its report is considered by the Commission in closed session and is adopted by the Commission and is incorporated, either in its entirety or summarized, into the report of the Commission.

F. The identification of patterns and recommendations made to the Commission and the Council

22. The reports of the Working Group have identified the areas dealt with in the communications submitted to the Commission. The only major issue that the Working Group has identified is violence against women in detention, on which it has expressed its concern on a number of occasions. In its report in 1988, the Working Group also expressed particular concern about the sexual harassment of women in the work-place. Overall, the reports of the Working Group have been brief and general.

23. The Working Group has made few suggestions on recommendations the Commission might make to the Council pursuant to its resolution 1983/27, paragraph 5. In 1984, the Working Group suggested that, based on its report, the Commission might wish to make recommendations to the Council, 1/ and in 1988, the Working Group proposed that the Commission should urge the Council "to recommend that its Member States take legislative and other appropriate measures to halt the current negative trends related to the status of women in their countries". 2/ In 1990, the Working Group, referring to physical violence against women in detention, again proposed that the Commission should recommend appropriate action to the Council. 3/

24. The Council has adopted, on the recommendation of the Commission, resolutions (1986/29 of 23 May 1986 and 1990/5 of 24 May 1990), dealing with the issue of violence against detained women, that appear to have been influenced by the reports of the Working Group. None the less, the tangible contribution of the communications procedure to the adoption of recommendations by the Commission and the Council appears to have been minor to date and confined mostly to one area. As a result, some Governments suggest in their responses that the reports of the Working Group should be more detailed and should contain more concrete suggestions on action to be taken by the Commission.

II. THE PROBLEMS WITH THE EXISTING COMMUNICATIONS PROCEDURE

A. The efficiency of the mechanism

25. Three issues need to be addressed in assessing the adequacy of the present procedure: (a) the efficiency of the communications procedure for achieving the goals specified in the relevant Council resolutions; (b) the need, if any, for modifications to the procedure; and (c) the need, if any, for additional mechanisms to deal with communications on the status of women.

26. While some Governments consider the present procedure satisfactory, they do not detail its contribution to the work of the Commission. By contrast, other Governments who consider that the procedure is not satisfactory detail its deficiencies and suggest substantive improvements.

27. Since its introduction in 1984, the present procedure does not appear to have been an efficient tool for implementing the functions enumerated in Council resolution 1983/27 or to have provided a significant input into the work of the Commission. The procedure has been criticized because it fails to meet legitimate needs regarding the investigation and redress alleged violations of human rights, even though the procedure was not intended to provide redress for individual grievances or to permit the investigation of allegations of more widespread violations of women's rights by particular countries.

28. The communications included in the confidential lists provided to the Commission cover a wide range of subjects. Many of these have been identified in the reports of the Working Group to the Commission. They include allegations of the denial of fundamental human rights to women in particular countries, failure to accord women equality in the provisions of the civil and criminal law, discrimination in nationality laws, widespread patterns of official and private violence against women (including the maltreatment and sexual abuse of women in detention), allegations of forced abortion or sterilization, discrimination in employment (including sexual harassment) and the exploitation of women by transnational companies with the support of national Governments.

29. Many of these allegations, if proven, would mean that in some countries there are widespread patterns of extremely grave violations of the human rights of women that deserve urgent attention from the Commission. The current procedure, however, is not an efficient mechanism for ascertaining the accuracy of allegations contained in communications or of Government replies, nor for ensuring that Governments provide replies that are directly responsive to allegations contained in communications, nor for responding to situations where there is evidence indicating that there are indeed widespread human rights violations involving discrimination against women.

30. Many Governments respond to communications concerning them by either stating that the allegations made are not accurate or justifying the laws and practices concerned by reference to arguments that appear inconsistent with accepted international standards relating to the rights of women. The present procedure does not provide for further scrutiny of such claims or ongoing monitoring of a particular situation. Overall, it does not seem, from the responses to communications, that the procedure has had an impact on advancing the position of women in situations in which there appear to be serious violations of their fundamental rights and freedoms.

B. The adequacy of the procedure as a source of information for policy-making

31. A number of Governments raise the issue of whether the present procedure provides an adequate basis for policy-making by the Commission relating to discrimination against women. Some Governments comment that, with only a few communications, quite small variations in the number of communications could produce a distorted view of the most important patterns and trends. If this is the case, it may be possible to limit possible distortion by expanding the range of sources of information that can be relied on by the Working Group and the Commission. In any event, in reaching policy decisions, the Commission already has available to it a wide range of sources of information.

32. One Government makes the point that although the Division for the Advancement of Women regularly receives the monthly confidential lists prepared by the Centre for Human Rights for the purposes of the present procedure, this does not mean that the Division receives summaries of all communications received by the Centre that may concern discrimination against women. Because of the proliferation of mechanisms developed by the Commission on Human Rights and the emergence of treaty-based complaint mechanisms, not all the communications received by the Centre are processed under resolution 1503 (XLVIII). Rather, the Centre directs communications to the appropriate mechanism, with preference given to mechanisms such as the individual complaint mechanisms established by particular treaties. None the less, the communications processed according to the present procedure still represent the bulk of the communications processed by the Centre for Human Rights.

33. The original procedure of forwarding to the Division copies of the monthly confidential lists was adopted at a time when resolution 1503 (XLVIII) was effectively the only available mechanism. Thus, it may now be appropriate for the Centre and the Division to discuss new procedures for keeping the Division informed of relevant communications received by the Centre that are processed under procedures other than resolution 1503 (XLVIII).

C. The information supplied by the specialized agencies

34. The Division regularly invites the specialized agencies to provide it with details of relevant communications that they have received. Since 1984, the input from the specialized agencies has been negligible, as the agencies have regularly responded that they receive few, if any, such communications or, in some cases, have failed to respond. The only information of substance provided by the agencies since 1984 has been material provided by the World Health Organization (WHO) on the issue of female genital mutilation. The Commission may wish to consider whether the agencies should continue to be invited to supply such information on a regular basis or whether some other more effective way could be found for the agencies most directly concerned to contribute to the Commission's work on communications.

35. The United Nations Educational, Scientific and Cultural Organization (UNESCO) is regularly invited to provide details of relevant communications it has received. When UNESCO receives such communications on individual cases, they are processed in accordance with UNESCO 104/EX Decision 3.3, which requires strict confidentiality at every stage of the procedure. As a result, UNESCO considers that it is not in a position to breach the confidentiality of the procedure by disclosing details of such cases other than to the author and

to the Government concerned during or subsequent to their consideration under that procedure (see paragraph 107 below).

D. The issues covered under the mandate

36. Since the adoption of the present procedure, there has been some debate over the appropriate criteria for inclusion of communications in the lists submitted to the Commission. While the Division has included in the lists communications that refer specifically to women, the Working Group has expressed the view on a number of occasions that any communications included in the lists submitted to the Commission should involve some element of discrimination against women and that not every communication that refers specifically to women necessarily falls within the Commission's mandate.

37. In 1984, the Working Group commented that it did not consider that communications concerning the separation of families and of persons wishing to marry fell within its mandate, in so far as they did not relate to women only, but applied equally to men and women. 4/ In 1986, the Working Group reiterated that view. 5/ In 1990, the Working Group made similar comments but those were not in the summary of its report to the Commission.

38. Several of the responding Governments raise the question of the substantive coverage of the mandate of the Commission and the Working Group. They point out, as has the Working Group, that on occasion communications that do not appear to fall within that mandate have been included in the lists of communications prepared by the Secretary-General. A number of these Governments draw a distinction between human rights violations where women happen to be the victims and violations involving discrimination against women. Accordingly, some Governments suggest that the mandate of the Commission should be clarified and that only communications involving discrimination against women should be included in the lists provided to the Commission.

39. While the distinction between sex-specific violations of women's human rights and human rights violations where women happen to be the victims might have a prima facie appeal, it gives rise to some conceptual and practical difficulties. Often, both sex and other factors, such as race, ethnic origin, political opinion and social origin, may together play a role in provoking or determining the form of human rights violations suffered by women. For example, both the Commission on the Status of Women and the Commission on Human Rights have addressed the situation of women under apartheid, stressing the fact that human rights violations suffered by women are often constituted by various factors and that racial discrimination may also take particular forms according to the sex of the person involved.

40. None the less, in view of the established division of competence between the human rights organs of the United Nations, clarification of the Commission's mandate to make clear that its competence is to deal with communications involving discrimination against women would expedite the selection of communications, provided that an expanded interpretation of that concept is adopted.

41. A number of Governments suggest that the Convention on the Elimination of All Forms of Discrimination against Women, adopted by the General Assembly in its resolution 34/180, annex, of 18 December 1979 should be taken as the appropriate framework for the consideration of communications. The Working Group, also, expressed this view in its 1986 and 1990 reports. However, using

the Convention in this way might give rise to difficulties because, first, not all Member States are parties to the Convention. Secondly, many States parties to the Convention have entered reservations to its provisions; thirdly, the Convention establishes its own supervisory mechanism for monitoring the progress made by States in implementing the provisions of the Convention, and it might be taken that the communications procedure infringes on the responsibilities of the Committee on the Elimination of Discrimination against Women (CEDAW).

42. The other major instrument that might serve as the normative standard is the Declaration on the Elimination of Discrimination against Women, adopted by the General Assembly in its resolution 2263 (XXII) of 7 November 1967. Prior to the adoption of the Convention, possible violation of the Declaration was the primary criterion for selecting communications to be put before the Commission (E/1982/34, para. 12). However, the Declaration is less detailed than the Convention and does not contain a definition of the concept of discrimination against women.

43. An alternative would be to clarify the mandate of the Commission without tying it completely to the Convention, to provide the Commission and its Working Group with the authority to deal with communications concerning discrimination against women, as already defined in article 1 of the Convention:

> "The term 'discrimination against women' shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."

44. That definition, if read in the context of the Nairobi Forward-looking Strategies for the Advancement of Women, 6/ represents an international consensus on the concept of discrimination against women, even though the definition is contained in a particular convention. It should also be noted that the Human Rights Committee referred to the Convention, in stating its understanding of the concept of discrimination under the International Covenant on Civil and Political Rights, adopted by the General Assembly in resolution 2200 A (XXI), annex, of 16 December 1966. It has interpreted the Covenant's guarantee of non-discrimination in similar terms (CCPR/C/21/Rev.1/Add.1, paras. 6-7).

45. Thus, the Commission may wish to consider whether the Council should add to the mandate of the Commission the authority to deal with communications concerning discrimination against women.

E. The level of knowledge of the procedure

46. While some communications on the status of women are sent directly to the Division, those communications extracted from the confidential lists of the Centre for Human Rights comprise the majority of the communications considered by the Commission. Compared with the volume of communications received by the Centre, the number received by the Division seems disproportionately low.

47. A number of Governments express the view that the procedure of the Commission is not particularly well-known and that greater efforts should be

made to publicize its existence and scope among national and international organizations, in particular, women's groups. It does seem that there is a low awareness of the procedure at the international and national levels and the Commission may wish to consider ways in which greater publicity could be given to the procedure. One Government suggests the preparation and wide distribution of a separate pamphlet outlining the functions of the Commission in relation to communications.*

48. One factor, however, that probably contributes to the low number of communications directed to the Division is the nature of the procedure itself, which gives the individual complaining of a human rights violation no participatory role in the process, nor does it promise the author of the communication a remedy. By contrast, the wide variety of procedures under different instruments administered by the Centre for Human Rights often manifest a participatory role or promise a possible remedy. These procedures may be more likely to elicit communications.

49. Any decision to give the existing procedure greater publicity must take into account the fact that it may be difficult to persuade persons to utilize a procedure when that procedure provides neither redress for individual grievances nor permits detailed study of particular situations, especially when there are other procedures available that appear to offer greater opportunities for redress.

F. The problems arising in the work of the Working Group

1. Background knowledge of the procedure

50. One Government notes that the communications procedure is not particularly well-known to Member States and that States appointed to the Working Group are not always familiar with its procedure or role. In future, the present report, or extracts from it, could be supplied to Member States, especially those that are members of the Commission, in advance of its sessions.

51. At present, the members of the Working Group are chosen at the session of the Commission at which they are to serve. The Commission may wish to consider appointing the members of the Working Group at the previous session of the Commission to permit the States concerned to prepare themselves more fully for the work of the Working Group. The Commission on Human Rights has adopted this approach in appointing the members of its Working Group on Situations (Council resolution 1990/41 of 25 May 1990), and the same applies to the Working Group of the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the Commission on Human Rights.

52. The advance selection of members of the Working Group would permit another problem identified by a number of Governments to be addressed, namely, the fact that not all members of the Working Group necessarily have an expertise in the

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*The procedure is briefly described in a pamphlet issued by the Centre for Human Rights describing United Nations procedures for the examination of communications, Communications Procedures, Fact Sheet No. 7 (Geneva, 1989), p. 15.

area. If a State were aware that it would be serving on the Working Group, it could include in its delegation a person with the appropriate expertise to serve on the Working Group.

2. Analysis of communications

53. One Government considers that there is insufficient time made available for members of the Commission to study the lists of communications. At present, the confidential list of communications is distributed to members of the Commission on the opening day of each session. The non-confidential list, when it exists, is sent to the members before the session, as with all Commission documents, and is also available to observers.

54. To alleviate this problem, the Commission may wish to adopt the practice of distributing the confidential list in advance of the session to all members of the Commission or to the members of the Working Group, if these are known in advance. The monthly confidential lists of communications prepared by the Centre for Human Rights are distributed as they are prepared to members of the Sub-Commission and also to members of the Commission on Human Rights.

3. Independence and impartiality

55. A number of Governments express the view that the Working Group is not sufficiently independent and impartial in its composition and working methods. One particular issue that is identified is the fact that on occasion the Working Group has had before it for consideration communications referring explicitly to one of the members of the Working Group. Although the function of the Working Group is not formally to examine the communications in a quasi-judicial manner, a number of Governments consider this situation problematic, apparently out of concern that even the identification of trends and patterns in the communications considered might be distorted if members of the Working Group are themselves specifically mentioned in communications.

56. This issue would be difficult to address in practical terms, particularly if the members of the Working Group are to be appointed a session in advance, as many States are referred to explicitly in communications.

57. One Government notes that the reports of the Working Group, being adopted by consensus, deal with broad issues. It may be that the governmental nature of the composition of the Working Group means that, in the search for consensus, difficult cases involving situations in particular countries are not being adequately considered. This problem could probably be solved by the involvement of independent experts in the procedure of examining communications.

58. The more general issue of a lack of balance in the procedure is raised by a number of Governments. After a communication is referred to the Government to which it explicitly refers and that Government's reply is received, the author of the communication is not informed of the substance of the reply. Thus, the author has no opportunity of responding to the Government's version of events, a circumstance that limits the Working Group's ability to evaluate the allegations and the response.

59. The mandate of the Working Group is to identify a consistent pattern of reliably attested violations; at present, there is no effective procedure by which the reliability and accuracy of the communication or the Government reply can be evaluated. The adoption of admissibility criteria in the initial

screening of communications, suggested by one Government, would help, as would permitting the author of the communication to respond to the Government's reply. Such procedural provisions, however, would only be appropriate if the Commission had the power to examine specific country situations or individual cases based on multiple sources of information rather than having to rely only on the communications themselves as a source of information.

4. Frequency of meetings of the working group

60. Some Governments note that the Working Group meets only once a year and then only for a few meetings. If the procedure were to be improved and additional functions assigned to the Working Group, more time might need to be allocated for its meetings. It might also then be necessary to consider whether the Working Group or some other body should meet between sessions of the Commission in order to examine communications. For example, under the procedure established by Council resolution 1503 (XLVIII) and followed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, communications are first examined by the Sub-Commission's pre-sessional Working Group and then by the plenary at the Sub-Commission's regular session in August. Communications referred to the Commission on Human Rights are then considered by that Commission's pre-sessional Working Group on Situations and then by that Commission at its following session. Similarly, other bodies that consider communications under procedures established by treaties or other instruments generally meet more than once a year to consider communications.

5. Replies by States to communications referring explicitly to them

61. In accordance with Council resolution 1983/27, upon receipt of a communication referring explicitly to a Member State, the Division sends details of that communication to that State. Communications received by the Division by mid-October of one year will be included in the list of communications provided to the Commission at its following session; later communications will be included in the lists provided to the Commission at the session following. Replies received by Governments up to the time of the Commission's session are included in the materials provided to the Commission and are cross-referenced to the relevant communications. Thus, a Member State normally has at least three months to submit any reply to a communication that refers to it explicitly.

62. The responses of Member States to communications that refer explicitly to them vary. Some States submit detailed replies that respond directly to allegations made in communications, other States submit more general replies that may not necessarily address the allegations made, while yet other States do not reply at all. For example, at the thirty-first session of the Com mission in 1986, only 7 replies were received to a total of 19 communications referred to Governments by the Division. At its thirty-second session, in 1988, of 16 communications received referred to Governments by the Division, 5 replies had been received by the time the Commission considered the item and 2 additional replies were received subsequently. At its thirty-fourth session, in 1990, there were 8 replies to 10 such communications.

63. The response rate to the communications extracted from the confidential list of the Centre for Human Rights appears to be similar. For example, there were 19 such communications submitted to the forty-sixth session of that Commission in 1990 from the human rights list, to which there had been 11 replies from Governments by the time the Commission considered the item.

64. While the confidential list of communications prepared for a Commission session includes any replies from Governments that were not received in time for consideration at the previous session of the Commission, the list does not include details of those Governments that have still not replied to communications forwarded to them in earlier years. The Commission has not approved any procedure whereby the Working Group or the Secretary-General might remind States that they have not replied to communications forwarded to them, and the communications are taken to have been dealt with during the Commission session. If a procedure were adopted, the Secretary-General might send a follow-up letter, or some other form of communication, to induce responses. The Commission might, for example, make public the substance of a communication if a Government does not provide a satisfactory response within a reasonable time of receiving the communication.

65. Similarly, the Commission may wish to provide the Working Group with the power of indicating whether it considers that the reply from a State is an adequate response to a communication and, if not, of permitting the Working Group to request a supplementary reply from the State.

G. The avoidance of duplication in the consideration of communications between different bodies

66. One Government expresses concern that there may be insufficient co-ordination between, as well as significant duplication of effort by, the Commission on the Status of Women and the Commission on Human Rights in dealing with communications on the status of women. The Government refers in particular to the fact that the lists of communications presented to the Commission on the Status of Women include communications considered by the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the Commission on Human Rights under resolution 1503 (XLVIII). It is suggested that greater co-ordination is required, which should include more active consultation between the respective secretariats with a view to ensuring that each communication is presented to the most appropriate body, thereby avoiding overlap.

67. The principle of avoiding most duplication in the consideration of communications and to ensure close co-operation between the two secretariats is in general accepted within the United Nations. However, an effort to eliminate overlap entirely might have contrary results. It should be noted that the communications selected from the confidential lists are considered by the Commission on the Status of Women from the perspective of discrimination against women in accordance with the standard established in Council resolution 1983/27, a special responsibility that the Commission is arguably uniquely qualified to discharge. However, a pattern of discrimination against women may accompany a broader pattern of human rights violations appropriate for consideration under the different standard of resolution 1503 (XLVIII).

68. To eliminate duplication by excluding communications that may be relevant to the different tasks of the commissions from the consideration of one commission might have an undesirable impact on the work of the Commission on the Status of Women since it could restrict the amount of information coming to the Commission through the communications procedure.

69. One other aspect of co-ordination between the two secretariats should be noted. At present, communications received directly by the Division concerning the status of women are processed in Vienna. In some cases, these

communications could also be dealt with under one of the procedures administered by the Centre for Human Rights without real duplication. For example, a communication alleging sex discrimination in social security law or discrimination against women of a particular ethnic origin could be received by the Division and included in the list submitted to the Commission. However, if the State concerned had accepted the competence of the Human Rights Committee under the Optional Protocol to the International Covenant on Civil and Political Rights or the competence of the Committee on the Elimination of Racial Discrimination under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, adopted by the General Assembly in resolution 2106 A (XX), annex, of 21 December 1965 these communications could also be processed under those procedures. That avenue might well result in a more satisfactory resolution for the individual concerned of the matters that gave rise to the communication.

70. At present, if such communications are received by the Division and considered appropriate for inclusion in the list for the Commission, the Division does not undertake additional inquiries to determine whether the communications could also be dealt with under one of the individual communications procedures nor would it send the communications to Geneva for that purpose, although some communications not deemed appropriate for the list are forwarded to Geneva. It might be appropriate for the Division to ensure that a communication is also sent to Geneva if it appears that it could be processed under one of the individual communications procedures, as well as including it in the list provided to the Commission on the Status of Women. This would require further consultation with the Centre for Human Rights, but would not require a new mandate.

H. The inclusion of communications on the Commission's agenda on an annual basis

71. Council resolution 1983/27 provides that the Commission is to apply the procedure laid down in that resolution at each of its regular sessions. Since the adoption of that resolution, the item of communications has been on the agenda of the Commission at its sessions in 1984, 1986, 1988 and 1990 on the basis of a biennial programme of work. The matter was not on the agenda for the Commission's special session in 1987, nor in 1989, based on the assumption that some Commission functions remained biennial when the sessions were resumed on an annual basis in 1987, for a limited period.

72. One Government comments that it appears from Council resolution 1983/27 that, with the change in the Commission's periodic sessions from biennial to annual, the item on communications should be on its agenda at each session and suggests that the Commission confirm this position. In practice, the Secretariat has now ceased to distinguish items on the Commission's agenda on the basis of annual or biennial, unless so requested by a specific resolution.

I. The relationship between the work of the Commission and the work of the Committee on the Elimination of Discrimination against Women

73. A number of Governments suggest that there is a need for the communications work of the Commission to be integrated with the work of CEDAW, although they do not offer concrete suggestions on how this might be done. Several possibilities exist.

74. CEDAW could draw on the work of the Commission by having the members of CEDAW provided with copies of the list of communications presented to the Commission. However, since members of the Committee would presumably use this information in their dialogue with States when considering their reports under the Convention on the Elimination of All Forms of Discrimination against Women, this would undermine the confidentiality of the Commission procedure set out in the enabling resolutions.

75. Another option is to invite the Chairperson of CEDAW to attend the meetings of the Working Group and the relevant meetings of the Commission. However, this would have financial implications, as provision has not been made for the Chairperson of CEDAW to attend sessions of the Commission. In the event that the Commission decided to adopt some mechanism for considering situations on the basis of initial screening by a group of independent experts, one or more CEDAW members could be invited to serve on the Commission.

J. The confidential nature of the procedure

76. One issue that the Commission may wish to consider is whether the procedure, if retained in its present form merely as a source of information for the Commission, should continue to be confidential. Although the various individual procedures for processing communications are confidential and depend on the specific circumstances, as are the mechanisms for considering them, the information considered confidentially by the Commission is mostly not significantly different from that included in the public reports of the Special Rapporteurs of the Commission on Human Rights and other matters discussed at the public sessions of that Commission.

III. THE NATURE AND LIMITATIONS OF THE PRESENT PROCEDURE

77. Attention has been drawn (section II, above) to a number of perceived deficiencies in the present procedure and a number of suggestions made on how they might be remedied. The following sections contain more fundamental criticisms of the existing procedure, which draw attention to its limitations in comparison with other procedures available within the United Nations system. The question of whether major changes should be made to the present procedure or whether a new procedure should be adopted, as well as the form these could take, are addressed.

A. The types of communications procedure: complaint-information and complaint-recourse functions

78. Procedures for dealing with human rights communications available within the United Nations system can be classified into two broad categories: (a) complaint-recourse; and (b) complaint-information procedures, which may be either (i) general or (ii) "situation" mechanisms.*

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*This is an adaptation of terminology used by M. E. Tardu, "Human rights complaint procedures of the United Nations: assessment and prospects", Des Menschen Recht zwischen Freiheit und Verantwortung: Festschrift für Karl Josef Partsch zum 75. Geburtstag, J. Jekewitz and others, eds. (Berlin, Duncker and Humblot, 1989), p. 287.

79. The purpose of a complaint-recourse procedure is the redress of individual grievances. The body receiving the communication is obliged to take action on an individual communication and the author of the communication is entitled to participate in the consideration of the communication procedure to some extent. Examples of such procedures are the individual communications procedures established by the first Optional Protocol to the International Covenant on Civil and Political Rights, by the International Convention on the Elimination of All Forms of Racial Discrimination, article 14, and by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (article 22), adopted by the General Assembly in its resolution 39/46, annex, of 10 December 1984.

80. The purpose of a complaint-information procedure, by contrast, is not to provide an avenue for the redress of individual grievances but to identify general trends of human rights problems or human rights problems in particular country situations in order to formulate appropriate remedial strategies. The author of the communication does not generally participate formally in the consideration of the communication after it has been submitted and does not have the right to be informed of the outcome of the consideration of the communication. One example of such a procedure is that established by the Economic and Social Council in its resolution 1503 (XLVIII).

81. This broad classification does not reflect the full diversity of existing human rights procedures. For example, even a complaint-information system may go some way towards providing a remedy for an individual as an incidental result of the matter being considered at the international level. Furthermore, the work of the various thematic Special Rapporteurs of the Commission on Human Rights has a recourse function, as well as addressing country situations and more general issues within the Rapporteurs' mandates.

82. It is important to keep in mind, in assessing the efficacy of the present procedures and in considering the criticisms of it, the relatively limited scope and goals of the procedure.

83. The present procedure of the Commission can be characterized as a complaint-information procedure, specifically as one that examines communications as a source of information and only for the purpose of identifying general trends and patterns of violations against women rather than for the purpose of identifying country situations and conducting a thorough study of them. The Commission examines the communications submitted to it in order to inform itself of patterns of violations of women's rights so it can recommend the adoption of appropriate policy measures.

84. Thus, the present procedure does not provide an individual with the opportunity of seeking redress for alleged discrimination by a State, nor does it provide a forum in which a detailed study of a particular country situation can be undertaken where there appears to be a consistent pattern of discriminatory practices.

85. A number of Governments have drawn attention to these limitations in the present communications procedure, noting that it does not provide for any follow up or sanctions in particular cases and suggesting that a procedure that would do so might profitably be introduced, perhaps modelled on the procedure of the Commission on Human Rights. Some Governments also note that the procedure does not provide an avenue for the consideration of individual grievances.

86. These criticisms of the present procedure identify fundamental limitations that cannot be addressed by relatively minor modifications of the type suggested in the preceding sections. Remedying these deficiencies would involve a major change in the nature of the present procedure or the adoption of a new mechanism.

87. The Commission may therefore wish to consider whether the present procedure should be modified or supplemented to provide a mechanism by which individual complaints can be examined or situations can be identified and made the subject of further study.

88. The introduction of a procedure modelled on the procedure set out in resolution 1503 (XLVIII), or some other model, or of a procedure for considering individual complaints, could involve a major change in the mandate of the Commission and have important organizational, financial and legal implications. If the Commission were to decide that such changes are desirable, further detailed consideration would be necessary. To aid the Commission in its consideration of this issue, a number of possible models for such procedures are described in the later sections of this report.

B. The comparison of the present procedure with the mechanisms available under the Commission on Human Rights

89. One factor relevant to the question of whether the present procedure should be revamped or supplemented is the practice of the Commission on Human Rights, which has developed a number of new mechanisms during the last decade to deal with communications concerning human rights.

90. One of the striking differences between the work of the Commission on Human Rights and the Commission on the Status of Women is the difference in the procedures available in each forum for responding to alleged violations of human rights. In the Commission on the Status of Women, the present communications procedure and the public debate of the Commission are the only channels by which such allegations can be dealt with.

91. Under the auspices of the Commission on Human Rights, however, there is the public debate, not only of that Commission, but also of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, as well as the procedure established under Council resolution 1503 (XLVIII). In addition, there are a number of specialized mechanisms, including the thematic mechanisms, such as the Commission's Special Rapporteurs on Summary and Arbitrary Executions, on Torture, on Religious Intolerance and the recently appointed Special Rapporteur on Trafficking in Children, as well as the Working Group on Enforced or Involuntary Disappearances. That Commission has also appointed Special Rapporteurs or Special Representatives to prepare reports on individual countries. In contrast, the Commission on the Status of Women has only had a thematic Special Rapporteur on one occasion.

92. The mechanisms developed by the Commission on Human Rights in recent years diverge in important respects from earlier models such as the procedure established in resolution 1503 (XLVIII) as well as from the procedure of the Commission on the Status of Women. One notable characteristic of the new mechanisms is their greater transparency. The new procedures have moved away from confidential consideration of communications towards public documentation and discussion of them. The thematic and country rapporteurs of the Commission are the most prominent examples of this development.

93. A related development is the trend towards allowing the author of the communication a greater level of participation in communications procedures. For example, the author of a communication sent to one of the Special Rapporteurs can ascertain the Government's response and any progress made when the Rapporteur's report is published and considered by the Commission. In the case of the Working Group on Enforced or Involuntary Disappearances, the author of the communication is provided with the opportunity of responding to the reply of the Government concerned and of contesting the Government's version of the facts.

94. One other important characteristic of the new mechanisms is the role of the independent expert. The Special Rapporteurs and Special Representatives appointed by the Commission on Human Rights are required to be independent experts rather than representatives of Governments. A similar development can be seen in the decision of the Economic and Social Council to entrust to a committee of independent experts the monitoring of the implementation of the International Covenant on Economic, Social and Cultural Rights, adopted by the General Assembly in its resolution 2200 A (XXI), annex. Previously, that function had been performed by a Working Group of the Council composed of governmental experts.

IV. OTHER COMMUNICATIONS PROCEDURES UNDER WHICH COMMUNICATIONS ON THE STATUS OF WOMEN COULD BE CONSIDERED

95. Any decision to change fundamentally the existing communications procedure or to adopt a new mechanism must take into account the need to avoid unproductive duplication of procedures and the need for co-ordination in the implementation of existing procedures and any new procedures. As a first step, those procedures already in existence at the international level, which have been used or could be used for the examination of communications alleging discrimination against women, either in individual cases or country situations, need to be examined.

96. There are a number of procedures within the United Nations system under which a person can lodge an individual complaint of discrimination on the ground of sex. In addition, there are also procedures available under which a situation of widespread violations of women's rights could become the object of a thorough study and further action.

97. None of the bodies implementing those procedures, however, has any specialized competence to deal with issues of discrimination against women as does the Commission on the Status of Women and CEDAW.

A. Individual complaints procedures that cover sex discrimination

1. Optional Protocol to the International Covenant on Civil and Political Rights

98. An individual may submit a complaint of sex discrimination under the first Optional Protocol to the International Covenant on Civil and Political Rights. However, this avenue is only available if the State against which the complaint is made is a party to both the Covenant and the Optional Protocol. As at 14 September 1990, 51 of the 92 States parties to the Covenant had accepted the competence of the Human Rights Committee under the Optional Protocol.

99. The International Covenant contains two types of guarantee of non-discrimination on the ground of sex: freedom from discrimination in the enjoyment of the civil and political rights contained in the International Covenant (articles 2 and 3); and an independent guarantee of non-discrimination (article 26). The Human Rights Committee has interpreted article 26 as guaranteeing freedom from discrimination not just in the enjoyment of civil and political rights, but also in the economic, social and cultural fields where a State has adopted legislative regulation in those areas. 7/

100. There have been a number of cases of discrimination on the basis of sex that have been brought before this Committee and in which it has expressed the opinion, in its views adopted pursuant to the Optional Protocol, that there has been a violation of the non-discrimination guarantees of the Covenant. Most of these cases have involved clear-cut cases of discrimination. 8/ Many of the most important issues involving discrimination against women that have been identified by the Commission and CEDAW have not been taken up under the Optional Protocol, although in theory many of them could be.

2. Committee against Torture

101. The individual complaint procedure established by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (article 22) is also available in cases in which torture or other ill treatment within the definition of the Convention involves discrimination against women.* Once again, however, this procedure would only be available against a State that had accepted the competence of the Committee against Torture to consider individual communications. As of 14 September 1990, 24 of the 53 States parties to the Convention had made declarations accepting its competence to examine individual complaints.

102. By the end of its fourth session in April 1990, the Committee against Torture had adopted views in only three cases, all of which it dismissed on admissibility grounds. The Committee has not considered any cases in which discrimination against women has formed the major part of an allegation of torture or other ill treatment. In its consideration of States parties' reports under the Convention, article 19, the Committee has not placed any emphasis on the particular position of women or gender-specific issues in relation to torture.

3. Communications procedure of the United Nations Educational, Scientific and Cultural Organization

103. In 1978 the Executive Board of UNESCO established the procedure now applied for dealing with communications alleging violations of human rights within the fields of competence of UNESCO set out in 104 EX/Decision 3.3. Pursuant to that decision, the UNESCO Committee on Conventions and Recom-

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*The Convention in article 1 provides that torture means "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person [for specified purposes, not exhaustive] ... or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity".

mendations is assigned the responsibility of considering communications received by UNESCO that involve allegations of violations of human rights which are individual and specific.*

104. The Committee on Conventions and Recommendations is a committee of the Executive Board of UNESCO that normally meets twice a year. At present, it is composed of 24 members of the Executive Board, who are elected to serve as individuals representing their Governments. The aim of the communications procedure is to achieve an amicable solution wherever possible and the proceedings of the Committee are confidential during and after the consideration of communications. However, the author of a communication is given the opportunity of responding to the information supplied by the State concerned. Both the Executive Board and the Government concerned are informed of the Committee's proceedings and decision and are provided with a copy of them. The author of the communication is informed of the substance of the proceedings and of any decision taken by the Committee, but is not provided with a copy of them.

105. For communications to be considered under this procedure they must satisfy detailed admissibility criteria, 9/ one of which is that "the communication must concern violations of human rights falling within the competence of UNESCO in the fields of education, science, culture and information" (UNESCO 104 EX/Decision 3.3, para. 14(C)).

106. The following rights, which are contained in articles of the Universal Declaration of Human Rights, have been identified by UNESCO as falling within its field of competence for this purpose:** (a) The right to education (article 26); (b) The right to share in scientific advancement (article 27); (c) The right to participate freely in cultural life (article 27); and (d) The right to information, including freedom of opinion and expression (article 19).

107. In addition those rights may imply the exercise of others, including:

(a) The right to freedom of thought, conscience and religion (article 18);

(b) The right to seek, receive and impart information and ideas through any media and regardless of frontiers (article 19);

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*Responsibility for dealing with "questions of massive, systematic or flagrant violations of human rights which result from either a policy contrary to human rights applied de jure or de facto by a State or from an accumulation of individual cases forming a consistent pattern" is assigned to the Executive Board and General Conference of UNESCO in public meetings (104 EX/Decision 3.3, para. 18). However, the Committee on the Application of Conventions and Ratifications carries out the initial screening on the basis of an examination of the substance of the individual communications before it (102 EX/17, paras. 24-25). In practice, no such situation has ever been referred to the Executive Board.

**Extracted from the standard letter sent by the Director of the Office of International Standards and Legal Affairs to the authors of communications examined under 104 EX/Division 3.3.

(c) The right of an author to the protection of the moral and material interests resulting from any scientific, literary or artistic production (article 27);

(d) The right to freedom of peaceful assembly and association (article 20), for the purposes of activities connected with education, science, culture and information.

108. Thus, the mandate of the Committee is limited as to subject-matter and does not provide comprehensive coverage of other areas in which discrimination might occur. While complaints involving discrimination against women can be considered by the Committee provided they concern violations of the rights listed above, there has been a negligible number of communications considered under that procedure in which allegations of discrimination against women have been dealt with.

B. Other individual complaints procedures

109. Communications involving allegations of discrimination against women can also be processed under other individual complaint mechanisms that do not specifically refer to discrimination in general or to sex discrimination in particular. This will be so if the communication comes within the scope of those procedures. For example, a communication alleging racial discrimination against women of a particular ethnic origin could be considered as a case of racial discrimination under the procedure set forth in the International Convention on the Elimination of All Forms of Racial Discrimination (article 14) if the State concerned had accepted that procedure. 10/ Similarly, the case of a woman who had been made to "disappear" because of her political activities in support of women's rights could be dealt with by the Working Group on Enforced or Involuntary Disappearances.

110. Consideration of such cases under such procedures may produce a satisfactory resolution of the case, but unless referred to the Commission on the Status of Women, the relevance or importance of the sex discrimination involved may not always be sufficiently recognized.

C. Procedures of the International Labour Organisation

111. The International Labour Organisation (ILO) has a number of procedures for dealing with communications alleging violations of human rights within the areas of its work. The available procedures can be applied to individual cases as well as situations or patterns; on the whole, they have tended to be applied in cases in which there is an alleged widespread violation of the relevant rights.

112. The complaint procedures of ILO can only be initiated by a member State of ILO, an employers' or a workers' organization or the Governing Body of ILO. Thus, individuals do not have direct access to the procedures of ILO but must persuade one of the entities with standing to submit a communication on her or his behalf.

113. The ILO Constitution, in article 24, provides that an industrial association of employers or workers may make a representation to the International Labour Office that a member of ILO "has failed to secure in any respect the effective observance within its jurisdiction of any convention to which it is a party". The matter is brought before the Governing Body of ILO, which is

composed of government, employers' and workers' representatives. If the Governing Body considers that the representation is receivable, it is required to appoint a Committee of the Governing Body, composed of equal numbers from government, employers' and workers' representatives, to examine the complaint. The Committee reports to the Governing Body, which may then publish the representation and response of the Government in accordance with the ILO Constitution, article 25.

114. The ILO Constitution, articles 26 to 34, provides another means of dealing with complaints that a member is not securing the effective observance of a convention that the member has ratified. This procedure may be initiated by a member of ILO that has also ratified the convention in question or the Governing Body on its own initiative or on the receipt of a complaint from a delegate to the International Labour Conference. This procedure may, if the Governing Body considers this appropriate, lead to the appointment by the Governing Body of a commission of inquiry to consider the complaint and to report thereon.

115. While both these procedures have been used on a number of occasions, it does not appear that any cases in which issues of discrimination against women were central have been taken up under them.

116. These procedures could be of assistance in cases in which discriminatory actions were contrary to an ILO convention by which the State concerned was bound. There are a number of ILO conventions the violation of which would constitute discrimination; of particular importance are ILO Convention No. 100 (equal remuneration) and Convention No. 111 (discrimination in occupation and employment), although there are many other ILO conventions the breach of which might involve discrimination against women. However, these procedures are more suitable for addressing a pattern of discriminatory treatment rather than an individual case.

117. ILO has also established special procedures for dealing with alleged violations of trade union rights, which can be invoked against any member of ILO, regardless of whether that member has ratified any of the Conventions dealing with trade union rights. 11/ Such complaints are referred in the first instance by the Governing Body to its Committee on Freedom of Association (a tripartite body, with members serving in their personal capacity). That Committee reports to the Governing Body its view on whether the matter requires further consideration, in which case it will be referred either to the Committee of Experts on the Application of Conventions and Recommendations (in the case of ratified conventions) or, with the consent of the member concerned, to a Fact-Finding and Conciliation Commission for examination (in the case of unratified conventions).

118. This procedure applies only to issues relating to trade union rights.* While such issues could involve questions of discrimination against women,

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*By arrangement between the United Nations and ILO, communications to the United Nations, containing allegations of infringements of trade union rights, from Governments or trade union or employers' organizations against States members of ILO are forwarded to ILO for appropriate action in accordance with these procedures. A similar arrangement has been made for communications relating to forced labour.

there is no evidence that any complaints have been brought under this procedure in which discrimination against women in the enjoyment of trade union rights has been a central issue.

119. Communications concerning the status of women can also be examined by the Committee of Experts and the Committee on the Application of Standards of the International Labour Conference. Under the present procedures for the examination of reports by Governments on the application of ratified conventions, employers' and workers' organizations may submit observations on the application by member States of the conventions ratified by them. These observations are considered by the Committee of Experts and may be the subject of comments by that Committee.

120. ILO procedures are also limited by definition in the subject-matter of complaints, are more potentially useful where there is a pattern of discriminatory conduct, and rely on a workers' or employers' organization to formally lodge a complaint. But for these reasons, they may provide a limited avenue for the consideration of communications concerning discrimination against women.

D. Other procedures (complaint-information procedures)

121. There are a number of procedures elsewhere within the United Nations system that fall into the category of complaint-information procedures. They include the procedure set out in resolution 1503 (XLVIII), as well as the Special Rapporteurs of the Commission on Human Rights, in particular its thematic Special Rapporteurs.

1. The procedure established by Economic and Social Council resolution 1503 (XLVIII)

122. The procedure established by resolution 1503 (XLVIII) marked a significant divergence between the respective mandates of the Commission on Human Rights and the Commission on the Status of Women to consider communications.

123. As with the Commission on the Status of Women, the Secretary-General is requested to prepare two lists for the consideration of the Commission on Human Rights: a non-confidential list of communications dealing with the principles underlying universal and effective respect for human rights and a confidential list of other communications whose common feature is that they complain of violations of human rights. These are the subject of a monthly confidential list containing a brief indication of the substance of each of them, which is also circulated to the Division. It is this second category of communications that is subject to the procedure established by Council resolution 1503 (XLVIII).

124. A three-stage procedure is set forth in resolution 1503 (XLVIII), involving consideration of complaints by three bodies: a special Working Group of the Sub-Commission on Prevention of Discrimination and Protection of Minorities; the Sub-Commission itself; and the Commission on Human Rights.

125. In the first stage of the procedure, the Working Group of the Sub-Commission, consisting of no more than five members, meets once a year in private meetings to consider all communications, including replies from Governments, received by the Secretary-General under Council resolution 728 F (XXVIII) in order to select by a majority vote those communications

that appear to reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms, in order to bring them to the attention of the Sub-Commission, together with the replies from Governments, if any. In deciding whether to consider communications, the Working Group applies the admissibility criteria laid down in Sub-Commission resolution 1 (XXIV) of 13 August 1971.

126. The second stage of the procedure takes place in the Sub-Commission as a whole, which considers in closed meetings the communications brought before it, as well as any replies of Governments and other relevant information, in order to determine if particular situations that appear to reveal a consistent pattern of gross and reliably attested violations of human rights should be referred to the Commission on Human Rights.

127. The third stage takes place at the Commission level. The Commission is called upon to determine whether a situation that has been referred to it by the Sub-Commission requires a thorough study by the Commission and a report and recommendations thereon to the Council in accordance with Council resolution 1235 (XLII), paragraph 3, of 6 June 1967, or whether it may be the subject of an investigation by an ad hoc committee, with the proviso that such investigation can only be undertaken with the express consent of the State concerned, in constant co-operation with that State and under conditions agreed to by it.

128. The procedure under Council resolution 1503 (XLVIII) treats admissible communications as a source of information in regard to a particular situation that reveals a consistent pattern of gross violations of human rights. The procedure does not provide redress for individual grievances. Thus, as in the case of the Commission on the Status of Women, the Secretary-General ceases practically to have any contact with the author of a communication from the time he sends an acknowledgement of receipt to the person concerned. If the author wishes to be informed of the action taken upon his or her communication, the Secretariat replies that no further information can be provided owing to the confidential character of the procedure governed by resolution 1503 (XLVIII). According to paragraph 8 of that resolution, all actions envisaged in the implementation thereof by the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the Commission on Human Rights shall remain confidential until such time as the Commission may decide to make recommendations to the Economic and Social Council.

129. The primary normative instrument applied in the procedure laid down in resolution 1503 (XLVIII) is the Universal Declaration of Human Rights adopted by the General Assembly in its resolution 217 A (III) of 10 December 1948. The procedure may apply to cases of discrimination against women, but cases in which discrimination against women is central have not been taken up under that procedure. Although there is no reason why widespread discrimination against women should not satisfy the standard, in practice many of the instances of such discrimination that require attention would not be considered to fall within the minimum requirements set under resolution 1503 (XLVIII), unless they formed part of a larger pattern of violations.

130. It should be noted in this context that Council resolution 1983/27 requires the Working Group of the Commission on the Status of Women to draw to the attention of the Commission those communications that appear to reveal "a consistent pattern of reliably attested injustice and discriminatory practices against women", while the standard laid down in resolution 1503 (XLVIII) is "a consistent pattern of gross and reliably attested violations".

131. Thus, while the resolution 1503 (XLVIII) procedure is technically available to deal with situations involving widespread discrimination against women, it has not been used in this context and it may be that many situations involving patterns of discrimination against women that would fall within the mandate of the Commission on the Status of Women would not satisfy the threshold requirement of resolution 1503 (XLVIII).

2. Thematic Special Rapporteurs of the Commission on Human Rights

132. One of the most important mechanisms developed in the last 10 years by the Commission on Human Rights is that of the thematic rapporteur. That Commission has appointed as Special Rapporteurs on particular themes a number of independent experts. There are now four Special Rapporteurs with mandates covering summary and arbitrary executions, torture, religious intolerance and trafficking in children.

133. The functions of the individual Rapporteurs vary according to the different mandates granted to them by the Commission on Human Rights. They include the collection of information on the observance or violation of specific rights, the receipt and forwarding to Governments of communications received from individuals or organizations alleging violation of the rights that fall within the relevant mandate (in some cases as a matter of urgent action), reporting on the extent and practice of the violations of the relevant rights, formulating policy recommendations and, in some cases, visiting specific countries at the invitation of those countries.

134. The report of each Rapporteur to the Commission on Human Rights is a public document that contains summaries of communications and of replies from Governments, as well as more general material. The Rapporteurs do not adjudicate on the accuracy of the allegations contained in material that they receive from individuals and organizations or from Governments in reply.

135. To date, while there has been some secondary consideration by various Rapporteurs of issues of discrimination against women within the specific fields covered by their mandates, these issues have not been central. Thus, the work of the Rapporteurs, limited in its procedural possibilities and substantive mandate, does not provide a major avenue for the consideration of issues of discrimination against women.

V. CONCLUSION: OPTIONS FOR STRENGTHENING THE PROCEDURE

136. There are two approaches to strengthening the procedure. One is to accept the underlying premises of the procedure and seek to strengthen it by dealing with some of the operations. As already noted, many of these reforms, while they would improve marginally the operation of the present procedure, would not necessarily respond to the more fundamental criticisms that have been made of it. There are several different options that would involve a greater change.

137. Major changes to the existing mandate and procedure of the Commission on the Status of Women would have important procedural, organizational and financial implications. When the Commission last reviewed its communications procedures in 1980, it recommended to the Council that the Secretary-General appoint an ad hoc group of experts to study procedures for dealing with communications on the status of women and to report to the Commission at its next

session (E/1982/34, para. 35). That recommendation was not adopted by the Council.

A. Minor modifications of the existing procedure

138. Minor improvements to the procedure the Commission may wish to consider include the following:

(a) Clarifying the substantive coverage of the mandate of the Commission to ensure that only communications involving discrimination against women are brought before it;

(b) Preparing a brochure on the procedure that gives practical information on the communications that can be considered, such as how an individual or a non-governmental organization may go about submitting such a communication and the possible results of utilizing the procedure;

(c) Increasing publicity for the present procedure;

(d) Appointing the members of the Working Group of the Commission in advance of the Commission session at which they are to serve;

(e) Providing the lists of communications to members of the Working Group and the Commission prior to the commencement of the session;

(f) Holding pre-sessional meetings of the Working Group;

(g) Adopting a procedure whereby States that have not replied to communications concerning them are reminded of that fact and encouraged to do so;

(h) Adopting a procedure whereby the Working Group could indicate whether the reply from a State was an adequate response to a communication and, if it were not, could request a supplementary reply from the State;

(i) Turning the present confidential procedure into a public procedure;

(j) Encouraging closer co-operation between the Division for the Advancement of Women and the Centre for Human Rights in relation to the processing of communications.

These changes could be absorbed with minor programmatic or financial implications, primarily in terms of conference servicing of pre-sessional meetings or of any public meetings of the Working Group.

B. Options involving greater changes in mandate or approach

1. Adoption of a procedure for dealing with "situations"

139. The difficulties faced by the Commission under its present mandate in undertaking in-depth examinations of particular situations apparently involving a consistent pattern of discrimination against women has already been noted. A number of Governments suggest that the present procedure of the Commission on Human Rights might be an appropriate model for such a mechanism. One Government suggests that the task of identifying situations that require referral to the Commission on the Status of Women could be performed by an *ad hoc* committee.

140. The initial stage of screening under resolution 1503 is carried out by a Working Group of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, followed by consideration by the full Sub-Commission. The members of the Sub-Commission and its Working Group are independent experts, not Government representatives, and it is not until a situation is referred to the Commission on Human Rights that representatives of Governments examine the situation.

141. If a procedure similar to the present one were to be established for the Commission on the Status of Women, it might be appropriate for the initial screening to be carried out by a group of independent experts rather than an ad hoc committee of the Commission composed, as is the Working Group, of Government representatives. This procedure, however, would require the funding of such a group under the regular budget.

142. Another mechanism that the Commission could take as a model for any new procedure is the Working Group on Enforced or Involuntary Disappearances. This procedure, established in 1979, was the first of the thematic procedures adopted by the Commission on Human Rights. The Commission decided in its resolution 20 (XXXVI) that one mandate of this Working Group would be "to examine questions of enforced and involuntary disappearances", and it would be composed of five members of the Commission on Human Rights who serve as experts in their personal capacity.

143. In contrast to the resolution 1503 (XLVIII) procedure, this Working Group holds public sessions, receives material from non-governmental organizations and permits them to comment on Government replies (and vice versa). Members of the Working Group have visited countries on a number of occasions at the invitation of the countries concerned. The work of the Working Group includes consideration of individual cases, particular country situations and the phenomenon of "disappearances" more generally (E/CN.4/1990/13, paras. 348-349).

144. The main focus of its work has involved individual cases, in which it tries to assist persons to ascertain the whereabouts and fate of their relatives by opening channels of communication between individuals and Governments. The Working Group has stressed its humanitarian function and "does not engage in the attribution of responsibility of individual officers or agents of the State for individual cases of disappearances" (E/CN.4/1990/13, para. 347).

145. When the Commission on Human Rights adopted this mechanism, it deliberately moved away from the resolution 1503 (XLVIII) model of confidential considerations of communications in which the authors of communications had no ongoing participation. The importance of the work of the Working Group has been recognized and the subsequent thematic procedures adopted by the Commission on Human Rights have also moved away from the confidentiality and exclusion of the author that are a feature of the resolution 1503 (XLVIII) procedure. The Commission on the Status of Women could take this trend into account, as well as the increasing role being played by independent or governmental experts in human rights mechanisms, when deciding whether to upgrade its present procedure and the form that it might take. The creation of a Working Group along these lines, however, would also require an appropriate programmatic and financial allocation.

146. The adoption of a procedure to examine situations would also require the adoption of appropriate admissibility criteria for the initial screening of

communications, as a number of Governments note. An appropriate model might be the admissibility criteria currently applied by the Sub-Commission that are laid down in Sub-Commission resolution 1 (XXIV) (see annex II), particularly if communications processed under resolution 1503 (XLVIII) could also be dealt with under the corresponding procedure of the Commission on the Status of Women. However, it would be necessary to examine these criteria as well as others in order to ensure that any criteria eventually adopted were appropriate for dealing with communications dealing with discrimination against women.

147. Similarly, if such a procedure is adopted, it may be appropriate to make provision for other United Nations bodies or specialized agencies with relevant information to provide that information to the Commission or the screening body.

148. The adoption of a "situations" procedure could have recourse, organizational and financial implications, as noted above. Apart from the extra work involved in the processing of communications according to the relevant admissibility criteria, the screening body would need to meet more frequently than the Working Group presently does. The Commission might also need to allocate more time at each session to the consideration of the item on communications.

2. Appointment of a Special Rapporteur

149. In important respects, the role of the thematic rapporteur is analogous to that of the Working Group of the Commission on the Status of Women that considers communications, although the functions of the Commission do not include the limited recourse function that is contained in the mandate of some of the Rapporteurs.

150. The Commission might consider whether its work in dealing with communications would be enhanced by the appointment of a Special Rapporteur, in association with or in substitution for the Working Group set up under Council resolution 1983/27. Such a Rapporteur could be given a general mandate to consider communications on the status of women or a more specialized mandate that could be modified as necessary. For example, the mandate of a Rapporteur could include those matters, such as violence against women, that the Working Group, the Commission and the Council have identified as a result of the Commission's communications procedures.

151. The adoption of such a mechanism would respond to a number of the limitations of the current procedure, in particular, its failures to ensure any sort of recourse, to make public the failure of Governments to respond adequately to communications concerning them, and to generate in-depth analysis of current trends and policy recommendations for the Commission.

152. At the same time, a Special Rapporteur with a mandate similar to the Rapporteurs of the Commission on Human Rights would have limited ability to address country situations, even if provided with the authority to visit a State at the invitation of that State. The adoption of a procedure analogous to the resolution 1503 (XLVIII) procedure, in conjunction with the appointment of a Special Rapporteur, might remedy some of the deficiencies in the present procedure outlined earlier.

153. In the context of torture some concern has been expressed that the work of the Special Rapporteur on Torture might overlap unduly with the work of the

Committee against Torture. The possibility of a similar overlap with the work of CEDAW would need to be taken into account in any decision to appoint a Special Rapporteur. The Committee against Torture, which has powers to examine individual communications and to conduct investigations of situations not possessed by CEDAW, is working co-operatively with the Special Rapporteur, and it may be that the work of each mechanism will enhance that of the other rather than detract from it. The same could be said in the case of CEDAW, if the Commission were to appoint a Special Rapporteur.

154. It should be noted that the appointment of any Special Rapporteur would have financial implications.

3. Development of an optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women

155. One mechanism that could be developed for the consideration of individual communications would be the adoption of a communications procedure under the Convention on the Elimination of All Forms of Discrimination against Women. Under an optional protocol to the Convention, CEDAW could be given the power to entertain individual communications alleging violations of the Convention by a State party that has accepted the competence of the Committee to receive communications. This would give CEDAW the same competence as is presently enjoyed by the Human Rights Committee, the Committee on the Elimination of Racial Discrimination and the Committee against Torture in regard to their treaties.

156. While the development of an optional protocol to the Convention would involve the resolution of a number of difficult issues, there are established models within the United Nations system and elsewhere that would provide valuable guidance in that task. In any event, such a measure, even if adopted in the near future, would not begin to have any significant impact on the consideration of communications for a number of years. A decision to start work on the drafting of an optional protocol would not, therefore, obviate the need to consider whether changes to the procedure that could take effect immediately should be adopted.

Notes

1/ Official Records of the Economic and Social Council, 1984, Supplement No. 5 (E/1984/15), chap. IV, para. 70.

2/ Official Records of the Economic and Social Council, 1988, Supplement No. 5 (E/1988/15/Rev.1), chap. III, para. 31.

3/ Official Records of the Economic and Social Council, 1990, Supplement No. 5 (E/1990/25), chap. IV, para. 79.

4/ Official Records of the Economic and Social Council, 1984, Supplement No. 5 (E/1984/15), chap. IV, para. 70.

5/ Official Records of the Economic and Social Council, 1986, Supplement No. 5 (E/1986/24), chap. V, para. 94.

6/ Report of the Word Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, Nairobi, 15-26 July 1985 (United Nations publication, Sales No. E.85.IV.10), chap. I, sect. A.

7/ Broeks v. Netherlands, in Selected Decisions of the Human Rights Committee under the Optional Protocol, Seventeenth to thirty-second sessions, October 1982-April 1988 (United Nations publication, Sales No. E.89.XIV.1), vol. 2, p. 196; "General comments adopted by the Human Rights Committee under Article 40, paragraph 4 of the International Covenant on Civil and Political Rights" (CCPR/C/21/Rev.1/Add.1), para. 12.

8/ See, for example, Aumeeruddy-Cziffra v. Mauritius, in Human Rights Committee: Selected Decisions under the Optional Protocol, Second to sixteenth sessions (United Nations publication, Sales No. E.84.XIV.2), p. 67; Broeks, v. Netherlands, in Selected Decisions ....

9/ See United Nations Action in the Field of Human Rights (United Nations publication, Sales No. E.88.XIV.2), chap. XV, paras. 211-213.

10/ Report of the Committee on the Elimination of Racial Discrimination (Official Records of the General Assembly, Forty-Third Session, Supplement No. 18) (A/43/18), annex IV. As of September 1990, only 14 of the 129 States parties to the Convention have accepted the competence of the Committee under article 14.

11/ "Procedure for the examination of complaints alleging infringements of trade union rights" (Geneva, International Labour Organisation, 1985).

Annex I

RESOLUTIONS OF THE ECONOMIC AND SOCIAL COUNCIL RELEVANT TO MECHANISMS FOR COMMUNICATIONS ON THE STATUS OF WOMEN

A. Excerpted from resolution 304 I (XI) of 14 and 17 July 1950, which amended resolution 76 (V) of 5 August 1947*

The Economic and Social Council,

Decides to amend paragraphs (a), (b) and (e), of resolution 76 (V) of the Economic and Social Council to read as follows:

"The Economic and Social Council,

"...

"Requests the Secretary-General:

"(a) To compile and distribute to members of the Commission on the Status of Women, before each session, a non-confidential list containing a brief indication of the substance of each communication, however addressed, which deals with the principles relating to the promotion of women's rights in the political, economic, civil, social and educational fields, and to divulge the identity of the authors of such communications, unless they indicate that they wish their names to remain confidential;

"(b) To compile, before each session of the Commission, a confidential list containing a brief indication of the substance of other communications concerning the status of women, however addressed, and to furnish this list to members of the Commission in private meeting without divulging the identity of the authors of communications, except in cases where the authors state that they have already divulged or intend to divulge their names or that they have no objection to their names being divulged;

"(c) To enable the members of the Commission, upon request, to consult the originals of communications dealing with the principles relating to the promotion of women's rights in political, economic, civil, social and educational fields;

"(d) To inform the writers of all communications concerning the status of women, however addressed, that their communications have been received and duly noted for consideration in accordance with the procedure laid down by the United Nations. Where necessary, the Secretary-General should indicate that the Commission has no power to take any action in regard to any complaint concerning the status of women;

"(e) In the future, to furnish each Member State concerned with a copy of any communication concerning the status of women which refers explicitly to that State, or to territories under its jurisdiction, without divulging the identity of the author, except as provided for in paragraph (b) above."

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*Paragraphs (c) and (d) and the last paragraph, which are shown in bold type, are from resolution 76 (V) and remain unchanged.

Suggests to the Commission on the Status of Women that it should at each session appoint an ad hoc committee to meet shortly before its next session for the purpose of reviewing the confidential list of communications prepared by the Secretary-General under paragraph (a) above and of recommending which of these communications, in original, should in accordance with paragraph (c) above, be made available to members of the Commission on request.

B. Excerpted from Council resolution 1983/27 of 26 May 1983

The Economic and Social Council,

...

1. Reaffirms the mandate of the Commission on the Status of Women to consider confidential and non-confidential communications on the status of women;

2. Requests the Secretary-General to submit to the Commission, beginning at its thirtieth session, a report on confidential and non-confidential communications on the status of women, which shall include:

(a) Communications received under Council resolutions 76 (V) and 304 I (XI), including the comments of Governments thereon, if any;

(b) Communications received by the specialized agencies, regional commissions and other United Nations bodies, together with information on action that may have been taken following the receipt of such communications;

3. Also requests the Secretary-General to solicit the co-operation of the specialized agencies, regional commissions and other United Nations bodies in compiling the report called for under paragraph 2 above;

4. Authorizes the Commission on the Status of Women henceforth to appoint a Working Group consisting of not more than five of its members, selected with due regard for geographical distribution, to meet in closed meetings during each session of the Commission in order that it may perform the following functions:

(a) Consideration of all communications, including the replies of Governments thereon, if any, with a view to bringing to the attention of the Commission those communications, including the replies of Governments, which appear to reveal a consistent pattern of reliably attested injustice and discriminatory practices against women;

(b) Preparation of a report, based on its analysis of the confidential and non-confidential communications, which will indicate the categories in which communications are most frequently submitted to the Commission;

5. Requests the Commission on the Status of Women to examine the report of the Working Group and to avoid duplication of the work undertaken by other organs of the Economic and Social Council, the Commission being, in

this respect, empowered only to make recommendations to the Council, which shall then decide what action may appropriately be taken on the emerging trends and patterns of communications;

6. Decides that all actions envisaged in the implementation of the present resolution by the Commission on the Status of Women shall remain confidential until such time as the Commission may decide to make recommendations to the Economic and Social Council;

7. Decides to authorize the Secretary-General to provide, within existing budgetary resources, the services and facilities necessary for the implementation of the present resolution.

Annex II

ADMISSIBILITY CRITERIA FOR COMMUNICATIONS TO BE CONSIDERED UNDER ECONOMIC AND SOCIAL COUNCIL RESOLUTION 1503 (XLVIII), CONTAINED IN SUB-COMMISSION RESOLUTION 1 (XXIV)

"1. Standards and criteria

"(a) The object of the communication must not be inconsistent with the relevant principles of the Charter, of the Universal Declaration of Human Rights and of the other applicable instruments in the field of human rights.

"(b) Communications shall be admissible only if, after consideration thereof, together with the replies if any of the Governments concerned, there are reasonable grounds to believe that they may reveal a consistent pattern of gross and reliable attested violations of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid in any country, including colonial and other dependent countries and peoples.

"2. Source of communications

"(a) Admissible communications may originate from a person or group of persons who, it can be reasonably presumed, are victims of the violations referred to in subparagraph 1. (b) above, any person or group of persons who have direct and reliable knowledge of those violations, or non-governmental organizations acting in good faith in accordance with recognized principles of human rights, not resorting to politically motivated stands contrary to the provisions of the Charter of the United Nations and having direct and reliable knowledge of such violations.

"(b) Anonymous communications shall be inadmissible; subject to the requirements of subparagraph 2. (b) of resolution 728 F (XXVIII) of the Economic and Social Council, the author of a communication, whether an individual, a group of individuals or an organization, must be clearly identified.

"(c) Communications shall not be inadmissible solely because the knowledge of the individual authors is second-hand, provided that they are accompanied by clear evidence.

"3. Contents of communications and nature of allegations

...

"(b) Communications shall be inadmissible if their language is essentially abusive and in particular if they contain insulting references to the State against which the complaint is directed. Such communications may be considered if they meet the other criteria for admissibility after deletion of the abusive language.

"(c) A communication shall be inadmissible if it has manifestly political motivations and its subject is contrary to the provisions of the Charter of the United Nations.

"(d) A communication shall be inadmissible if it appears that it is based exlusively on reports disseminated by mass media.

"4. Existence of other remedies

"(a) Communications shall be inadmissible if their admission would prejudice the functions of the specialized agencies of the United Nations system.

"(b) Communications shall be inadmissible if domestic remedies have not been exhausted, unless it appears that such remedies would be ineffective or unreasonably prolonged. Any failure to exhaust remedies should be satisfactorily established.

"(c) Communications relating to cases which have been settled by the State concerned in accordance with the principles set forth in the Universal Declaration of Human Rights and other applicable documents in the field of human rights will not be considered.

"5. Timeliness

"A communication shall be inadmissible if it is not submitted to the United Nations within a reasonable time after the exhaustion of the domestic remedies as provided above."